

## § 1011.5

## 49 CFR Ch. X (10–1–07 Edition)

### § 1011.5 Employee boards.

This section covers matters assigned to the Accounting Board, a board of employees of the Board.

(a) The Accounting Board has authority:

(1) To permit departure from general rules prescribing uniform systems of accounts for carriers and other persons under the Interstate Commerce Act, and from the regulations governing accounting and reporting forms;

(2) To prescribe rates of depreciation to be used by railroad and water carriers;

(3) To issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the Interstate Commerce Act; and

(4) To grant extensions of time for filing annual, periodic, and special reports in matters that do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) The board may certify any matter assigned to it to the Board.

### § 1011.6 Delegations of authority by the Chairman.

(a)(1) This section provides for delegations of authority by the Chairman of the Surface Transportation Board to individual Board employees.

(2) The Chairman of the Board may remove for disposition any matter delegated under this section, and any matter delegated under this section may be referred by the Board employee to the Chairman for disposition.

(b) The Board will decide appeals from decisions of employees acting under authority delegated under this section. Appeals must be filed within 10 days after the date of the employee's action, and replies must be filed within 10 days after the due date for appeals. Appeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.

(c)(1) As used in this paragraph, *procedural matter* includes, but is not limited to, the assignment of the time and place for hearing; the assignment of proceedings to administrative law judges; the issuance of decisions direct-

ing special hearing procedures; the establishment of dates for filing statements in cases assigned for hearing under modified (non-oral hearing) procedure; the consolidation of proceedings for hearing or disposition; the postponement of hearings and procedural dates; the waiver of formal specifications for pleadings; and extensions of time for filing pleadings. It does not include interlocutory appeals from the rulings of hearing officers; nor does it include postponement of the effective date of:

(i) Decisions pending judicial review,

(ii) Decisions of the entire Board,

(iii) Cease and desist orders, or

(iv) Final decisions where petitions for discretionary review have been filed under 49 CFR 1115.3.

(2) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of procedural matters is delegated to administrative law judges or Board Members in proceedings assigned to them.

(3) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an administrative law judge or a Board Member, is assigned to the Secretary of the Board. The Secretary shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Board in individual proceedings, to decide whether complaint proceedings shall be handled under the modified procedure or be assigned for oral hearings. In carrying out these duties, the Secretary shall consult, as necessary, with the General Counsel and the Director of any Board office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Secretary.

(e) Authority to grant or deny access to waybills and to statistics reported under orders of the Board is delegated to the Director of the Office of Economics, Environmental Analysis, and Administration.

(f) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Board approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director and Associate Director of the Office of Economics, Environmental Analysis, and Administration and the Chief of the Section of Economics.

(g) The Secretary of the Board is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, to:

(1) Sign and transmit to the Small Business Administration certifications of no significant economic effect for proposed rules, that if adopted by the Board, will not have a significant economic impact on a substantial number of small entities; and

(2) Sign and transmit findings regarding waiver or delay of an initial regulatory flexibility analysis or delay of a final regulatory flexibility analysis.

(h) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed is delegated to the Director of the Office of Proceedings.

**§ 1011.7 Delegations of authority by the Board to specific offices of the Board.**

(a) *The Secretary.* The Secretary of the Board is delegated the following authority:

(1) Whether (in consultation with involved Offices) to waive filing fees set forth at 49 CFR 1002.2(f).

(2) To issue, on written request, informal opinions and interpretations (exclusive of informal opinions and interpretations on carrier tariff provisions), which are not binding on the Board. In issuing informal opinions or interpretations, the Secretary shall consult with the Director of the appropriate Board office. Such requests must be directed to the Secretary, Surface Transportation Board, Washington, DC 20423. Authority to issue informal opinions and interpretations on carrier tariff provisions is delegated at paragraph (c)(2) of this section to the Office of Compliance and Enforcement.

(b) *Office of Proceedings.* In addition to the authority delegated at 49 CFR 1011.6(h), the Director of the Office of Proceedings shall have authority initially to determine the following:

(1) Whether to designate abandonment proceedings for oral hearings on request.

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10904(d) for purposes of negotiations or, in exemption proceedings, for purposes of partial revocation and negotiations.

(3) Whether:

(i) To impose, modify, or remove environmental or historic preservation conditions; and

(ii) In abandonment proceedings, to impose public use conditions under 49 U.S.C. 10905 and the implementing regulations at 49 CFR 1152.28.

(4) In abandonment proceedings, when a request for interim trail use/rail banking is filed under 49 CFR 1152.29, to determine whether the National Trails System Act, 16 U.S.C. 1247(d), is applicable and, where appropriate, to issue Certificates of Interim Trail Use or Abandonment (in application proceedings) or Notices of Interim Trail Use or Abandonment (in exemption proceedings).

(5) In any abandonment proceeding where interim trail use/rail banking is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the National Trails System Act, 16 U.S.C. 1247(d).

(6) Whether to institute requested declaratory order proceedings under 5 U.S.C. 554(e).

(7) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10904 and at the railroad's request:

(i) In application proceedings, immediately issuing decisions authorizing abandonment or discontinuance; and

(ii) In exemption proceedings, immediately vacating the decision that postponed the effective date of the exemption.

(8) In proceedings under the Feeder Railroad Development Program under 49 U.S.C. 10907 and the implementing regulations at 49 CFR part 1151: